

In Re: Tri-City Community Action Program,
Inc. v. Bronder-Giroux et al**Case Number:** 17-01035**Ch:****MOVANT/APPLICANT/PARTIES:**

#31 Motion of Plaintiff Tri-City Community Action Program, Inc. to Amend Complaint (Jesse Redlener)
 #33 Opposition of Defendant Anne Howser (John Chamberlain)
 #35 Opposition of Defendant Philip Bronder-Giroux (Matthew Kane)

OUTCOME:

Granted #31 Denied Approved Sustained
 Denied Denied without prejudice Withdrawn in open court Overruled
 OSC enforced/released
 Continued to: _____ For: _____
 Formal order/stipulation to be submitted by: _____ Date due: _____
 Findings and conclusions dictated at close of hearing incorporated by reference
 Taken under advisement: Brief(s) due _____ From _____
 Response(s) due _____ From _____
 Fees allowed in the amount of: \$ _____ Expenses of: \$ _____
 No appearance/response by: _____
 DECISION SET OUT MORE FULLY BY COURT AS FOLLOWS:

Upon consideration of

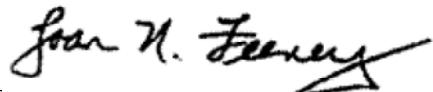
1) the Plaintiff's Motion to Amend Complaint through which it seeks to add two counts for "deepening insolvency" to its existing two-count Complaint; 2) the Opposition of Defendant Anne Howser; 3) the Opposition of Defendant Philip Bronder-Giroux; 4) the Plaintiff's Amended Complaint filed on April 26, 2017; 5) the Plaintiff's proposed First Amended Complaint; 6) the Defendants' Answers to the existing Amended Complaint; 7) the Court's Scheduling Order dated May 30, 2017 and deadlines set forth therein; 8) the entire record of proceedings in this adversary proceeding; 9) the absence of decisions in state and federal courts in Massachusetts recognizing deepening insolvency as a separate cause of action or as a measure of damages apart from other claims for relief, such as claims for breach of fiduciary duty, which the Plaintiff has pled in its existing Amended Complaint; 10) the Plaintiff's failure to further amend its Amended Complaint by the deadline set forth in the Scheduling Order, as well as its failure to seek an extension of time within which to amend its Complaint prior to the expiration of the deadline; and 11) the 22 month period within which this adversary proceeding has been pending,

Now, therefore, the Court denies the Plaintiff's Motion to Amend Complaint. The parties shall file their Joint Pretrial Memorandum in accordance with the Scheduling Order by April 26, 2019.

IT IS SO NOTED:

Courtroom Deputy

IT IS SO ORDERED:


 Joan N. Feeney
 Dated: 02/20/2019
 Joan N. Feeney, U.S. Bankruptcy Judge